

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Western District of Texas

United States of America)

v.)

JOSE GOMEZ III)

Case No. 7:21-MJ-315)

Defendant(s)

FILED
 AUG 25 2021
 CLERK, U.S. DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 BY MR
 DEPUTY CLERK

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 14, 2020 in the county of Midland in the
Western District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. Section 249(a)(2)

Hate Crime Act - Attempt to Kill

This criminal complaint is based on these facts:

See attached Affidavit

☒ Continued on the attached sheet.

Attested to by applicant pursuant to Rule
 4.1 of Fed. R. Crim. P. by phone & email.

/s/ William S. Livingstone

Complainant's signature

William S. Livingstone, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 08/25/2021City and state: Midland, Texas

Judge's signature

Ronald C. Griffin, U.S. Magistrate Judge

Printed name and title

7:21-MJ-315

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, William S. Livingstone, being duly sworn, hereby state as follows:

1. I am as Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since September 2019. I am currently assigned to the FBI El Paso Division-Midland Resident Agency, where I investigate national security, civil rights, and criminal matters. I have received training in investigations at the FBI Academy in Quantico, VA.
2. This affidavit is made in support of an application for a criminal complaint against JOSE GOMEZ III for Hate Crime Act including an Attempt to Kill in violation of Title 18 U.S.C. § 249(a)(2).
3. The facts and information set forth in this affidavit are based on my personal observations, my training and experience, and, as specifically attributed below, information obtained from law enforcement officers and witnesses. To the extent that any information in the affidavit is not my personal knowledge, it has been made available to me through reliable law enforcement sources, and I believe such information to be true. This affidavit is made for the sole purpose of demonstrating probable cause for the issuance of the requested complaint and does not purport to set forth all my knowledge of, or investigation into this matter. In addition, where I report information I learned from others or from reviewing documents and reports prepared by others, such information is recounted in sum and substance and in relevant part.

STATEMENT OF PROBABLE CAUSE

4. On March 14, 2020, at approximately 1941 hours, Midland Police Department officers were dispatched to Sam's Club at 1500 Tradewinds Boulevard, Midland, TX 79706 in reference to

a customer assaulting or possibly stabbing another customer. Responding officers arrived and took the subject into custody, later identified as JOSE GOMEZ III.

5. Evidence collected and developed by investigators, including a post-*Miranda* statement from GOMEZ, witness statements and video evidence, establish the following: At approximately 7:20 p.m. on March 14, 2020, GOMEZ entered the store behind an Asian family of Burmese descent, which included three young children. Store surveillance video shows GOMEZ following the Asian family immediately upon entering the store. GOMEZ then split off, and according to store employees, asked where utensils were located. GOMEZ went to that aisle, removed a serrated steak knife and returned to the Asian family.
6. GOMEZ ran up to the Asian father from behind and punched him. When the Asian father turned around, GOMEZ willfully caused him bodily injury by cutting his face with the knife, which is a dangerous weapon. GOMEZ fled and returned to the aisle where knives are located. GOMEZ got a larger knife and headed back to the Asian family.
7. When GOMEZ approached the Asian family again, GOMEZ pulled out the knife he had just retrieved and approached the family's children. GOMEZ used the knife to willfully slash the then-six-year-old Asian boy in the face, causing bodily injury, including inflicting a deep facial laceration and splitting his ear.
8. A Sam's Club employee saw GOMEZ attack the child and rushed to intervene. GOMEZ stabbed this employee in the leg, causing bodily injury to the employee. GOMEZ was eventually disarmed, subdued, and held down on the ground until responding officers arrived to take him into custody.
9. Later that same night, GOMEZ waived his *Miranda* rights and provided a statement to local authorities. He admitted that he had never seen the Asian father before and that he believed

the Asian father was “Chinese.” GOMEZ admitted that he targeted the “Chinese” father and “whoever I think came from the country who started spreading the disease around.”

GOMEZ admitted to targeting the Asian children, too. GOMEZ perceived the Asian father to be a “threat” and attacked him “to stop the threat.” GOMEZ admitted he intended to kill the father, and “nine times out of ten” had the same intent towards his children because they were “the same as him.”

10. The knives used in the attack by GOMEZ traveled in interstate and foreign commerce as they were imported from China. In addition, GOMEZ’s conduct otherwise affected interstate commerce as Sam’s Club closed early on the day of the incident and remained closed for the following two days. Officials with Sam’s Club estimate that they lost in excess of \$100,000 in revenue for the two-day business closure.

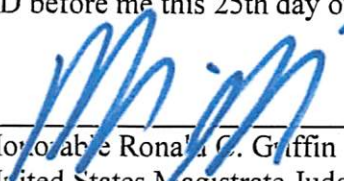
CONCLUSION

11. Based on the above, there is probable cause to believe that JOSE GOMEZ III committed the offense of Hate Crime including an Attempt to Kill, in violation of Title 18 U.S.C. § 249(a)(2).
12. If convicted, GOMEZ faces up to life imprisonment, five years of supervised release, and up to a \$250,000 fine.
13. Prosecution authorized by Assistant United States Attorney Glenn Harwood.

Attested to by applicant pursuant to Rule
4.1 of Fed. R. Crim. P. by phone & email.

/s/ William S. Livingstone
William S. Livingstone
Special Agent
Federal Bureau of Investigation

SWORN TO AND SUBSCRIBED before me this 25th day of August, 2021.



Honorable Ronald C. Griffin
United States Magistrate Judge